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Self-Infantilizing Women:

Paternalism in Abortion Lawmaking and Legislator Gender

by

Cherie H. Martin

An undergraduate honors thesis submitted in partial fulfillment of the

requirements for the degree of

Bachelor of Arts

in

University Honors

and

Political Science

Thesis Adviser

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Portland State University

2016

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Abstract:

Mainstream feminist political science discourse primarily focuses on abortion as an issue of male dominance over female individuals, and little research has been conducted to determine whether female lawmakers, too, are complicit in paternalism in anti-abortion rhetoric and lawmaking, and the implications of such self-infantilization. The present thesis surveys the existence of paternalistic language in state-level anti-abortion bills for the 2016 legislative session, and analyzes the results by legislator gender. The data conveys that both male and female legislators employ paternalistic language in anti-abortion legislation, which implies there is more to the abortion debate than gender differences. This paper explores the implications and potential causes of female legislators utilizing self-infantilizing language in the context of anti-abortion legislation, and argues the need for a significant reorientation of the abortion debate away from *men versus women*, and towards a discussion of the complex and varied intersections of race, wealth, age, gender and other social factors that affect a woman's ability to access abortion.

## Introduction

“Abortion facilities or providers often offer only limited or impersonal counseling opportunities; and;

Many abortion facilities or providers hire untrained and unprofessional counselors to provide pre-abortion counseling whose primary goal is to actually sell or promote abortion services.

Based on the findings...the purposes of this act are to:

Ensure that every woman considering an abortion receives complete information on abortion and its alternatives and that every woman receiving an abortion does so only after giving her voluntary and fully informed consent to the abortion procedure;

Protect unborn children from a woman’s uninformed decision to have an abortion;

Reduce “the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed,” as stated in *Planned Parenthood v. Casey...*” (AR Legis. Assemb., HB 1578, 2016)

These sections, which I have quoted from Arkansas’s HB 1578 – one of many state-level “Informed Consent” bills that Republican lawmakers introduced in 2016 – attempt to assert that abortion providers prey on women seeking abortion services by disallowing full access to healthcare information, thus placing women seeking abortion inherently at risk of physiological or psychological damage supposedly associated with abortion procedures. The legislative language here assumes that abortion facilities and providers coerce women into choosing an abortion without offering adequate and complete medical counseling. The legislation’s intent, at face-value, protects the seemingly vulnerable pregnant woman and her “unborn child” from the abortion provider’s malice. Through the intentional messaging in the context of this bill, the pregnant woman appears inactive in the choice to have an abortion. Instead, she is “uninformed” and violable.

The abortion issue has become increasingly divisive (Adams, 1997), and rhetoric from both sides of the issue disseminates political messaging with the intent to draw support by

appealing to emotion or strong feelings typically associated with the issue of abortion.

Particularly in my professional experience as an abortion rights advocate, I have observed individuals and leaders in the anti-abortion movement refer to women as uninformed or preyed-upon by abortion providers and pro-abortion activism. In abortion lawmaking, word choice matters. Words and language structure the rhetoric of a political agenda (Jesudasen and Weitz, 2015), and inform political decision making (Probert, 1972). The anti-abortion movement uses a discourse framework about abortion distinguishing women as incapable of sound decision-making, regretful, and in need of protection. Both men and women involved in the anti-abortion movement use this rhetoric. Likewise, both male and female legislators introduce legislation containing similar women-protective language. My research question asks: Do female legislators introduce anti-abortion legislation containing paternalistic and women-protective language at the same rate as their male counterparts?

The results of this study refuted the initial proscriptive assumption that female legislators should be less likely to utilize paternalistic language in their legislation. Overall, female legislators were just as likely as male legislators to introduce anti-abortion legislation containing both moderately and extremely paternalistic language. The results of this study, which point to the ubiquitous prevalence of patriarchal attitudes in government regardless of gender, indicate that female legislators in particular participate in self-denigrating lawmaking, specifically in anti-abortion law.

Because male and female legislators utilize paternalistic language equivalently in anti-abortion lawmaking, and because of the socio-economic factors that contribute to an individual's ability to access abortion services, I argue that the disparities that arise both in abortion access and anti-abortion ideology should cease to be conceptualized as a battle of the sexes, but rather

as stratification that also occurs along lines of race, class, and other complex social factors. Paternalistic language in anti-abortion rhetoric and legislation is certainly denigrating to all women, but is particularly harmful to women who experience greater healthcare marginalization while simultaneously remaining politically underrepresented. Female lawmakers, who as a result of social privilege on the basis of race, class, or age, are not affected by the various barriers to abortion access enacted by these laws, and inherently mitigate the self-infantilizing effects of the paternalistic language included in these bills.

### **Theory: Women for Women**

Female lawmakers should avoid paternalistic discourse, because it directly denigrates themselves. Women who engage in discourse that describes women as irrational or of poor judgement are inherently accusing themselves of the same thing, therefore it can be assumed that female lawmakers should be less likely to include paternalistic language in anti-abortion bills they introduce.

Language and word choice matters specifically in abortion politics. The choice to use even a single word when building anti-abortion rhetoric can indicate a deeper innate message that, at best, poses a need to protect women, and at worst, portrays women as weak-willed and lacking personal agency (Jesudasen & Weitz, 2015). Often, anti-abortion proponents use language that paints women as incapable of making decisions they will not regret, and that they require protection (Abrams, 2015), even when it comes to their own healthcare. Paternalism and women-protective themes are evident in the language and word choice predominant in anti-

abortion lawmaking, and they are not difficult to spot, so it is easy to assume that women should avoid the use of such language.

Women face the societal assumption, stemming largely out of liberal feminist thought, that they are to act in the interest of women as a whole. On average, female legislators are likelier to introduce legislation and push for policy change concerning family and child welfare, public health, and women's healthcare (Lawless & Fox, 2012); certainly many female legislators also choose to introduce legislation pertaining to abortion politics and provisions relating to the availability of abortion services. If a female legislator chooses to focus on the above policy areas, she no doubt cares about the women, children, and families whose lives are affected by them. So if a female legislator has women and women's reproductive healthcare in mind, she should be less likely to engage in paternalistic discourse which so clearly undermines women's agency to make decisions.

Beyond an inexplicit duty to advocate on all women's behalf, one would assume that an individual woman would have a vested interest in avoiding language that infantilizes herself, and that makes herself appear fragile or incapable. Women make up a disproportionately small proportion of elected offices (Childs & Krook, 2009). Female lawmakers must show their ability to act effectively, engage decisively, and make strong, informed decisions in order to become and remain viable for election or reelection. Lawmakers must be agentive and active. Paternalistic language, on the other hand, especially as it appears in anti-abortion legislation, creates the assumption that women are inherently reactionary, incapable of sound decision-making, and so endangered by their own choices as to require third-party protection (Abrams, 2015) (Jesudasan & Weitz, 2015). Because these stereotypes are inherently sexist, female lawmakers should avoid self-infantilizing language altogether purely on the basis of self-interest.



Furthermore, the supposition can be made that female lawmakers who use women-protective and paternalistic language may be damaging their own careers by perpetuating the notion that women are categorically inferior to men in decision-making, and that women require protection. If female legislators utilize language that is self-infantilizing, they may run the risk of damaging the way they are perceived by their peers and constituents. Based on this, female legislators should be expected to word their bills so that women are cast only in a positive light.

The above assumptions indicate that women should not use self-infantilizing language when they advocate for or introduce policy, but the results of this study indicate that they do, at least in the case of anti-abortion legislation. Therefore, the proscriptive stipulation that women should not engage in paternalistic rhetoric either for reasons of female solidarity or self-preservation, must be incorrect. The velleity that women should act in self-interest or in the interest of advancing women's equality is discredited by the results of this study.

### **Words Matter: Informing Choice and Building Framework**

The individual words and patterns of language that lawmakers employ are imperative in creating rhetoric and shaping common political ideologies. In the law, words and language take on intrinsic meanings (Probert, 1972) which become attached to them through the repetitive and specific contexts in which they are used. Through this process, an emotion or idea is coded into the use of the single word itself. Deeper meanings embed in the emotive response associated with the word in its specific social context, and eventually the deeper meaning of the word itself is incorporated into the *stare decisis* use of said word (Probert, 1972, p. 11). Whether intentional or not, those who author bills frame a particular political agenda using words and phrases, and

the emotive value intertwined with those words in the legal field - specific to the area of law in which the bill is introduced.

Choice making is imperative to both writing and interpreting the law, and the emotive response garnered by the way in which a law is structured informs choice. Emotive words, as defined by Probert (1972), are particularly functional in shaping political ideology and informing decision-making, due to their intrinsic nature to evoke an emotional response. Words' repetitive use and contextual socialization within specific areas of the law constructs the emotive qualities of said words. Because law-making and the interpretation of the law requires decision making, the words and language that lawmakers choose to include are most likely intentional (Probert, 1972). These words are chosen carefully in order to frame the purpose and political agenda of a bill.

Word choice especially matters in discourse shaping abortion politics. The abortion issue has become increasingly contentious in American politics (Adams, 1997), and the specific use of emotive words and language plays an important role in framing both the *pro-life* and *pro-choice* political agendas. On both sides of the argument, paternalistic woman-protective language is present in both the written and verbal areas of political discourse. Patronizing language is ubiquitously and problematically employed in many laws relating to women's reproductive healthcare (Jesudasan and Weitz, 2015).

Emotive words and politically evocative language is present in both written and verbal legal discourse, each of which are imperative in creating rhetoric, specifically pertaining to abortion law. The language codified into written legal discourse surges into more widely consumable verbal discourse, as political messaging is exchanged. Each area of discourse targets a different audience, but the deeper meaning assigned to the words and language used throughout

is the same. Legal specialists, like lawyers, lawmakers, and scholars, use official, specialist written discourse (Conley & O'Barr, 1990) - although it, too, often contains affective, framing language (Probert, 1972). Legal professionals who are articulate in legal jargon and densely-written legal documents consult forms of written discourse, and are able to make meaningful conclusions from it. Verbal discourse is more widely practical, and written discourse is its progeny (Conley & O'Barr, 1990). When women-protective rhetoric and paternalistic language is codified into law through written discourse, it develops and reinforces the same rhetorical framework that exists in the verbal discourse regarding abortion politics.

Through these avenues of legal discourse, and by employing the emotive value assigned to certain individual words and phrases, anti-abortion proponents and lawmakers create a framework for a common ideology that identifies the *problem* as abortion itself, and its *victim* as the women who obtain abortion. *Collective Action Frames* unify the goals and ideals of a movement, inform individuals and lawmakers which policies and attitudes to support, and offer both the pro-life and pro-choice camps the ideological platform on which to draw support and construct a cohesive politicized agenda. *Injustice Frames* identify who the perceived injustice affects and how to mitigate or end that injustice (Jesudasan & Weitz, 2015, p. 259). *Injustice Frames* operate within the greater *Collective Action Frame* in order to identify the victim, the antagonist, and to determine necessary prescriptions for resolving the injustice (Jesudasan & Weitz, 2015, p. 259). Initially, anti-abortion activists focused their *Injustice Frame* around fetal rights and protection, but later incorporated women's health and wellbeing into the rhetoric, due in part to overall attitudinal shifts about fetal personhood and sanctity (Jesudasan & Weitz, 2015, p. 261).

Anti-abortion ideology is primarily shaped by the type of language used by the community, and “[as] such, usage of even a single word brings with it a whole host of associated meanings, actors, and objects that come into ‘view’ whether or not the speaker desires” (Jesudasen & Weitz, 2015, p. 263). Individual words construct the narrative, which unifies the goals of the anti-abortion movement. The assigned deeper meanings of certain words in anti-abortion legislation, according to Probert (1972), were solidified by their repeated use and contextualization within the *Collective Action* framework of the pro-life movement.

Many common uses of emotive and provocative language exist in anti-abortion legislation, and are used intentionally to frame abortion as an undesirable or dangerous choice. *Womb* and *uterus*, which are essentially synonymous, but bear different connotations and evoke different emotional responses. *Womb* is generally used to express femininity, motherhood, and feminine spirituality. In the context of anti-abortion legislation, the womb, symbolizing a wistful femaleness, is violable, and therefore requires protection. *Uterus*, on the other hand, is the medical term for the female reproductive organ; the use of scientific terminology in women’s health law functionally mitigates gendered archetypes of motherhood and fragility that are associated with the word, *womb*. Whether a lawmaker chooses to use *womb* or *uterus* in anti-abortion legislation, contextualizes his or her political agenda covertly, without upending the structure and construction of a bill.

The words that lawmakers intentionally include in abortion-restrictive legislation is crucial in shaping anti-abortion rhetoric, connecting law with emotive meaning, and constructing a central anti-abortion narrative essential for political mobilization. The presence of emotive or affective words in anti-abortion legislation further entrenches the associated deeper assigned meanings, which rely on traditionally gendered stereotypes (Abrams, 2015). When lawmakers

support or introduce legislation that includes paternalistic words and language, they are intertwining law and gendered stereotypes about women and motherhood (Jesudasan & Weitz, 2015).

### **Women-Protective Framework in Anti-Abortion Law**

The words lawmakers use in anti-abortion bills build the ideological framework on which the movement is hinged. This particular framework is constructed upon the following three specific stereotypes about women:

1. Women's decisions are often misguided or incorrect,
2. Women are likely to regret their decisions, and
3. Women require protection from their decisions and their outcomes (Abrams, 2015. p. 185).

The above framework predetermines the type of paternalistic and women-protective language most likely to appear in legislation that pertains to women's reproductive healthcare (Abrams, 2015) (Jesudasan & Weitz, 2015).

Written and verbal discourse surrounding women's reproductive health frequently implies that women are inherently bad at decision making (Abrams, 2015. p. 185). This language makes women appear uninformed, undereducated, and emotionally reactive, as opposed to having agency over their own medical decisions. Women's judgement is especially perceived as untrustworthy in matters relating to reproductive healthcare (Abrams, 2015. p. 185). Anti-

abortion laws requiring mandatory waiting periods<sup>1</sup>, parental consent for minors, and informed consent,<sup>2</sup> undermine a woman's ability to obtain an abortion procedure as soon as she decides it's the correct option for her. Legislation mandating the dissemination of medically inaccurate information (Richardson & Nash, 2006) about abortion procedures and the supposed associated risks,<sup>3</sup> does not, in fact, increase a woman's ability to make an informed decision. Instead, these sorts of bills utilize paternalistic language to frame anti-abortion rhetoric (Jesudasan & Weitz, 2015) and undermine a woman's decision by placing significant barriers and prerequisites on abortion. Abortion provisions that rely on the socially conditioned mistrust of women's judgement impede a woman's ability to decide her own reproductive fate.

Anti-abortion rhetoric also reinforces the assumption that women will regret their decision to have an abortion (Abrams, 2015. p. 185), which is correlated to the widespread sense that women make hasty, reactive decisions that are inevitably regrettable. Bills that recognize pro-life organizations and Crisis Pregnancy Centers, both of which commonly offer post-abortion counseling and support, use language that suggests women regret their decisions. Although Crisis Pregnancy Centers provide information and counseling that has regularly been exposed as containing shaming tactics, religious-centric messaging, and medically inaccurate

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<sup>1</sup> Mandatory waiting periods are intended to provide time – usually twenty-four to forty-eight hours – between an initial consultation with an abortion provider and the actual abortion procedure.

<sup>2</sup> Informed Consent laws often require the provision of state-mandated educational tools - including videos, brochures, and other literature - that are intended to inform a woman of the potential risks and health threats associated with abortion. They are not always required to be scientifically accurate, and have been repeatedly disputed by medical professionals and empirical scientific research (Richardson & Nash, 2006).

<sup>3</sup> There are minimal risks associated with elective abortions, which are among the safest voluntary medical procedures. The mortality rate for women who give birth is about fourteen times higher than the mortality rate for women who choose to have an elective abortion (Raymond & Grimes, 2012).

information (McIntire, 2015), they continue to garner significant support among pro-life advocates and lawmakers. Some bills attempt to humanize a fetus by requiring a woman to view a fetal ultrasound or listen to the medical practitioner's description of the fetus and its developmental stage.<sup>4</sup> In cases where an ultrasound is not available or feasible, color images that may closely resemble the developmental stage of the fetus must be shown to the pregnant woman in its place. Bills that attempt to humanize the fetus by codifying the above abortion prerequisites use paternalistic language to suggest that a woman will regret terminating the pregnancy, but will be less likely to choose an abortion after viewing or hearing about the fetus. Although the narrative that a woman will regret the decision to have an abortion persists, research shows that the vast majority of women experience little to no regret or negative psychological effects both immediately after and in the years following an abortion (Major B., 2000), rendering legislation aimed at reducing abortion procedures on the grounds of regret largely unnecessary.

The backbone of the framework detailed above is the perception that women require protection (Abrams, 2015. p. 185) - from themselves, from friends and family, and from medical professionals involved in the abortion procedure (Jesudasen & Weitz, 2015). Although women-protective provisions are presented as a legitimate concern for the health and safety of women, they discreetly employ infantilizing language to imply that women require protection specifically from their own decisions, regret, and negative psychological effects. Women-protective legislation and language indicates the need for women's protection specifically from their doctor-patient relationships, which in other medical contexts are generally seen as private

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<sup>4</sup> Many of the bills recorded for this study, which pertain to ultrasound requirements as a prerequisite to abortion, recommend that women who wish not to view the ultrasound on the monitor or listen to a description of the fetus may choose to look away and close their ears.

exchanges. Medical professionals are conceptualized as malicious and coercive – traits assigned to them uniquely by anti-abortion rhetoric (Jesudasen & Weitz, 2015). Although anti-abortion framework espouses the notion that women are frequently coerced into having an abortion by their friends, family, or abortion providers, coercion is rarely a factor for abortions obtained in the U.S. (Barot, 2012). Women-protective rhetoric frames medical professionals as malevolent actors who *do* something *to* women, whereas women are described as having something *done to* them (Jesudasen & Weitz, 2015). Although prevalent themes in anti-abortion lawmaking rely on inaccurate information and gendered stereotypes regarding abortion procedures and the women who obtain them (McIntire, 2015) (Richardson & Nash, 2006), their predominance in lawmaking processes has perpetuated their commonality in civil discourse concerning abortion politics.

These three common stereotypes in anti-abortion legislation are reinforced not only by the content and policy goals of the legislation, but also by the words that construct it. These bills and laws often contain words, including those presented in this study, that carry deeply emotive meanings and allude to the false perception that women are reactive, regretful, under informed, or otherwise incapable of rightly choosing for themselves to have an abortion.

The use of affective language - whether intentional or not - also characterizes women who seek abortion as inactive, while medical providers are characterized as aggressive, creating the falsely constructed speculation that women and their fetuses require protection (Jesudasen & Weitz, 2015). Women-protective and paternalistic affective language reinforces the gendered stereotype that women are passive, incapable of making valuable or informed decisions, and that they require protection from predatory medical professionals. This rhetoric also problematically presents fetuses as humanized individuals who are agentive, perhaps more so than the pregnant women themselves (Jesudasen & Weitz, 2015).



When the framework shaping legal discourse about reproductive healthcare demotes women to passive vessels solely for childbearing purposes (Jesudasen & Weitz, 2015), the tangible capacity for a woman to choose her reproductive fate is effectively obliterated. Themes of paternalism and thinly-veiled sexism are seldom subversive or subtle when they appear in anti-abortion legislation, yet female lawmakers are just as likely as their male counterparts to introduce legislation that contains them.

## **Methodology**

To test whether Republican women and Republican men introduce legislation containing paternalistic language at the same rate and to the same degree, I surveyed 133 anti-abortion bills introduced in state legislatures for the 2016 legislative session from forty-two states,<sup>5</sup> searching for a list of twenty words I deemed both affective and paternalistic. By determining how many times every individual term was present in each bill, this investigation allowed me to quantify the degree to which paternalistic language is present in anti-abortion legislation. I was then able to analyze the data by the gender of the legislator who introduced each bill, and determine how broadly paternalistic attitudes are expressed by male and female legislators. The gender of the legislator was taken into account rather than the bill's author or authors primarily because the legislator is ultimately responsible for the final content of a bill before it is introduced.

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<sup>5</sup> States that were not surveyed included Connecticut, Delaware, Georgia, Kansas, Montana, Nevada, North Carolina, and Texas, and were not included either because there were no bills introduced in the 2016 legislative session directly relating to abortion, or because the 2016 legislative session had not yet begun by the time I was conducting my research.

Although the process to draft a bill includes many steps and influences from multiple actors, the bill's primary sponsor is ultimately responsible for the language included in the bill because he or she initially requested the bill's drafting, and he or she will ultimately decide whether to approve it for introduction to the House (Tauberer, 2010). Bills are generally drafted by House Staffers and Staff Lawyers, and during the bill-drafting process, lobbyists and special interests that have a vested interest in the issue play a particularly significant role, as they are able to suggest edits and omissions to the bill (Tauberer, 2010). Some private interest organizations write sample draft legislation that House Staffers can copy and tailor to the specific needs of a constituency and to compliment the state laws that are already in place. Americans United for Life (n.d.) is an organization comprised of legal professionals dedicated to the pro-life movement. Americans United for Life publishes an annual guidebook containing sample fill-in-the-blank bills that can be personalized specifically to fit the precise needs of any individual state (Defending Life, 2016). Although a bill's drafting process is influenced by many individuals and groups, the legislator is ultimately responsible for the bill's language on account of initially instigating the creation of the bill, and for deciding to finally introduce the bill in Congress (Tauberer, 2010).

The present study includes bills that situate a direct barrier on women seeking abortion services, place significantly burdensome requirements on abortion clinics so that they struggle to remain open, or attempt to outlaw abortion in specific cases, or even entirely. These sets of abortion restriction bills place the most significant burdens on women seeking abortion and abortion care providers by narrowing the window of time in which a woman can reasonably obtain an abortion, closing women's health and abortion clinics, reducing or totally eliminating

funding for low income women seeking abortion, and requiring medically unnecessary prerequisites to abortion.

I have categorized abortion clinic regulations as bills that place severe restrictions on the operational capacity of existing abortion clinics. Abortion clinic regulatory bills place requirements on abortion facilities and providers such as compulsory licensure to become ambulatory surgical centers, clinic hallways wide enough to fit two gurneys side-by-side, limitations on abortion clinics' proximity to schools, and requirements for abortion providers to obtain hospital admitting privileges,<sup>6</sup> among other restrictive regulations. Laws that would restrict public funding from state taxes also place potential additional burdens on abortion clinics and facilities, as well as decreasing the likelihood that low income women can access abortion care and services (Office of Human Rights, 2004).

I also examined bills relating specifically to the protection of a pregnant woman, including informed consent bills. These women-protective bills would require a pregnant woman seeking abortion to view and listen to a description of her ultrasound, review materials detailing the developmental stage of her fetus, and be given materials that offer resources related to childbirth, adoption, and parenting classes. Women-protective bills would also require that a minor's parents be informed of the minor's abortion or give consent for the abortion procedure. Some women-protective bills would also require that a woman seeking an abortion must observe a waiting period after completing the above prerequisites and an initial counsel, in order to think over her decision, before actually obtaining an abortion.

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<sup>6</sup> To gain hospital admitting privileges, physicians must request paperwork from the hospital, complete it, and send it back. In many documented cases, abortion providers who seek admitting privileges to hospitals have reported that their request for the paperwork was denied or ignored, or that their request was left pending for months or denied without any explanation (Sanchez, 2014).

I have also included fetal protection bills, which limit or regulate abortion procedures depending on the gestational age and developmental stage of the fetus, as well as questions to the fetus's personhood. Fetal protection laws often seek to ban abortion after twenty week's gestation, after a fetal heartbeat can be heard, or in cases where the fetus is found to have a birth defect, such as Down Syndrome. Fetal protective laws also include those which would grant legal personhood status to fetuses, or classify abortion and acts of harm resulting in the death of the fetus as manslaughter.

I have also chosen to include other, miscellaneous anti-abortion laws that don't fit neatly into the above categories. These miscellaneous bills relating to abortion include bills which would rescind the overall right to abortion in the state, and general amendments to existing abortion law. Because the fundamental right to an abortion is already granted by the Federal Government (*Roe v. Wade*, n.d.), bills outlawing abortion are mainly symbolic.<sup>7</sup>

In order to quantify paternalistic language in the surveyed bills, I compiled a list of twenty words (See Table 1) bearing significant and specific meaning in abortion politics, and searched for how often they appeared in the selected bills. I have deemed fifteen of these words as *Affective*, meaning they do not necessarily have a significant emotive quality attached to them outside of discourse related to women's healthcare and abortion, but within this discourse, they take on an explicit deeper meaning. These words are evocative, but not overtly inflammatory, and I have included them because of the specific affect that applies to them when they are framed in an anti-abortion context.

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<sup>7</sup> I purposefully did not include bills pertaining to the disposal of fetal remains after an abortion, or legislation requiring certain reporting standards for abortion procedures performed. Although they place additional burdens on the already limited resources available to abortion clinics, they do not impose direct obstacles in the way of women seeking an abortion.

*Affective* words are generally benign in common discourse, but exhibit specific veiled motives when they appear in anti-abortion rhetoric. Affective terms may arguably have a greater

Table 1	
<i>List of Affective and Grossly Affective Search Terms</i>	
<u><b>Affective</b></u>	<u><b>Grossly Affective</b></u>
Alive	Coerce/Coercion
Baby	Kill
Birth	Pain
Born	Regret
Child	Womb
Human	
Infant	
Informed	
Knowledge	
Life	
Mother	
Protect	
Psychological	
Safety	
Unborn	

effect on the negative framing of abortion due to their more clandestine emotive nature. Anti-abortion laws that use the words *baby*, *child*, or *infant* to refer to the fetus, while using *mother* to refer to the pregnant woman, humanize the fetus as a sacred, potential life, while framing the woman as a vessel whose purpose is to create and carry life. The words *birth*, *born*, and *unborn* further humanize the fetus by referencing childbirth as the acceptable conclusion of a pregnancy. Using *human* in anti-abortion legislation is largely symbolic, reminding the reader that the fetus is, in

fact, a human fetus; this is generally unnecessary and can be interpreted as a personifying appeal on behalf of the fetus. *Alive*, *life*, *protect*, and *safety* frame an anti-abortion bill as protecting the sanctity of human life and wellbeing, as well as advocating for the interest of patient health, whether or not the given abortion restriction will result in improved healthcare outcomes.

*Psychological* appears frequently to infer to the potential psychological risks of abortion, simultaneously touting the potential, yet unfounded, danger of abortion procedures, and seeming to advocate for the health, safety, and legitimate protection of women.<sup>8</sup> The words *informed* and

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<sup>8</sup> However, studies show that the vast majority of women face no negative psychological effects both immediately following, and years after choosing to have an abortion. (Major B., 2000)

*knowledge* insinuate that women do not have the proper knowledge prior to selecting to have an abortion, and must be taught in order to make a choice.

I have classified the remaining five words in this study as *Grossly Affective*. *Grossly Affective* terms bear palpable, emotive quality both within the specific area of discourse on women's health and abortion, and in general discourse and language. *Grossly Affective* words are highly inflammatory, directly paternalistic when used in the context of abortion restrictions, and generally negative. Although *Grossly Affective* words occur less frequently in legislation and legal discourse, due in part to the strong and obvious emotive meanings they represent, they are especially indicative of paternalistic attitudes when existent in anti-abortion legislation.

The *Grossly Affective* terms selected for this research carry deep and emotionally charged meanings both within and outside political discourse surrounding abortion law. *Coerce*, *kill*, *pain*, and *regret* each carry a strong negative affect, and are used specifically in anti-abortion legislation to frame abortion as an inherently dangerous medical procedure.<sup>9</sup> Although the word *womb* does not necessarily carry negative connotations, it is generally used to refer to the womanly and maternal aspects of childbearing and motherhood, and is not a widely-accepted medical term for the uterus. Additionally, when *womb* is used, it is often in the place of the whole woman, as if a woman's uterus and her personhood are exchangeable. Interestingly, language in legislature that refers to the whole woman, most often does so only to describe her as needing protection (Jesudasen & Weitz, 2015, p. 263).

It is interesting to note that some of these words are often combined into phrases that connote a specific deeper meaning as well. For example, *unborn child* and *born alive infant*

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<sup>9</sup> Elective abortion is safer in terms of mortality rates and complications than childbirth. (Raymond & Grimes, 2012.)

occur frequently in the bills surveyed for this study. *Unborn child* obviously humanizes the fetus and makes it innately violable. *Born alive infant* is used often in anti-abortion bills that seek to limit the legality of late term abortions, by alluding to the grotesque, but anomalous case of Dr. Kermit Gosnell,<sup>10</sup> making the atrocious conditions found in Dr. Gosnell's clinic seem widespread among all abortion clinics. The term, *born alive infant* not only humanizes the fetus, but creates the assumption that abortions are frequently botched or performed incompletely and incorrectly.

Through my simple approach identifying paternalistic language in anti-abortion bills, I have constructed an empirical research model to identify patriarchal attitudes among male and female legislators as they are expressed in lawmaking. The quantification of identifiably paternalistic language through my research methodology resulted in intriguing outcomes and offered a glimpse into the manifestation of sexism in legalism.

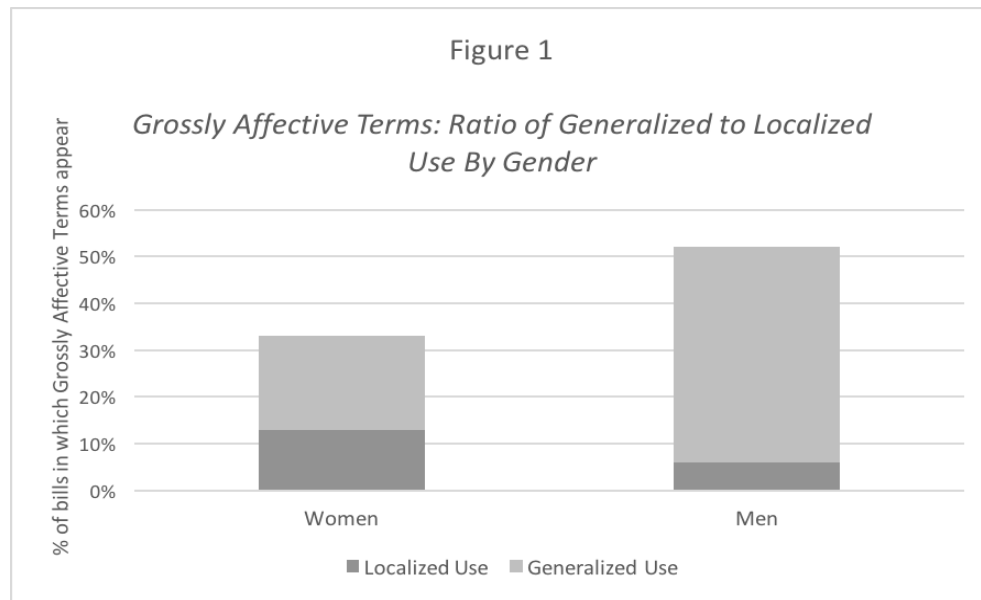
## Results

Overall, the results indicate that men and women indeed introduce legislation containing paternalistic language at essentially the same rates. Just over ninety-percent of bills introduced in each gender category contained one or more of the word search terms at least once in the body and title of the bill. The results of the study indicate that there is no significant difference in the expression of patriarchal attitudes through paternalistic and women-protective language between male and female legislators.

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<sup>10</sup> Kermit Gosnell was found guilty of manslaughter for killing infants born alive after botched abortions. Furthermore, his clinic was found to be filthy, and in violation of several health codes applying to medical service centers (Hurdle & Gabriel, 2013).

In-depth analysis of the data indicates that the use of paternalistic language is not only present at the same rate between male and female legislators, but is also spread among the majority of bills in both gender categories. The indicated search terms are not localized to a small number of bills, but rather appear frequently in the majority of bills introduced by both male and female legislators. This generalized use of paternalistic language is likely caused by patriarchal attitudes that are endemic to both male and female legislators. For both men and women, nine out of every ten bills introduced included at least one or more manifestations of paternalistic language.



Though the overall use of paternalistic language was similar for both male and female legislators, a smaller ratio of female legislators' bills than male legislators' bills included one or more *Grossly Affective* word. More than half of the bills introduced by male legislators included one or more *Grossly Affective* term, while only approximately one third of bills introduced by female lawmakers did. However, while more male legislators used *Grossly Affective* language, female legislators who did utilize *Grossly Affective* language used it more times per individual



bill (See Figure 1). This discrepancy possibly indicates that while misogynistic sentiments are more ubiquitous in males who introduce anti-abortion legislation, the same misogynistic attitudes are more extreme in the smaller ratio of female legislators who introduce the same type of legislation.

The overall analysis of the data indicate that both male and female legislators who introduced anti-abortion legislation at the state level in the 2016 legislative session were equally complicit in utilizing a patriarchal framework to shape and introduce anti-abortion legislation. These results are counterintuitive to the original theory which hypothesized that women would be less likely to utilize paternalistic language for reasons pertaining to self-interest and the advancement of women's equality as a whole. Below, I propose explanations as to why these results may have occurred, despite previous assumptions.

### **Analysis: Why Self-Infantilize?**

There are several reasons why a female legislator would choose to introduce anti-abortion legislation that contains paternalistic and women-protective language, despite the fact that doing so is ostensibly self-infantilizing. Gender disparities and gendered norms and expectations in government may lead women to preemptively avoid backlash by appealing to paternalistic attitudes. Furthermore, female lawmakers are likely not included among the groups and individuals who are largely affected by anti-abortion legislation, so using paternalistic language does not actually have a self-infantilizing effect.

Female legislators may fear the possibility of backlash from their male counterparts if they decline to exhibit paternalistic attitudes that are already prevalent in the

male-dominated government. Women continue to be underrepresented in elected offices (Childs & Krook, 2009. p. 125), so the risk exists that the increased presence and influence of women in government offices may result in intense backlash from their male counterparts in the form of blocking women-centric legislation, or preventing individual female legislators from attaining higher positions of power. The sentiment that collective action among female legislators will undermine male domination, leading to backlash, may discourage female legislators from introducing woman-centric legislation (Childs & Krook, 2009. p. 129). It may also encourage the use of paternalistic language by women in efforts to align with patriarchal supremacy. Male and female legislators alike tend to focus on the experiences of men and male authority (Childs & Krook, 2009. p. 129-130), so women may feel pressure to express internalized misogyny, specifically in the form of women-protective and paternalistic language in anti-abortion legislation.

Women are often subject to *tokenism*, wherein a female lawmaker feels pressure to represent the male-dominated collective ideology of an issue, rather than experiencing the freedom to express her own opinion and contribute individually (Childs & Krook, 2009. p. 135). Women who introduce anti-abortion bills may be more successful doing so if they use paternalistic language, because it potentially mitigates chauvinistic gatekeeping that could otherwise block them from involvement in policy creation.

Due in part to a personal and professional interest to assimilate and be taken seriously in male-dominated government, women may feel pressure to act on internalized misogyny and to overcompensate. They do this by knowingly sponsoring legislation employing women-protective language that appeals to patriarchal attitudes about motherhood, pregnancy, and women, even if it reinforces negative stereotypes about themselves as women. The potential that women will

experience backlash for refusing to engage in paternalistic discourse or be ensnared into *tokenism* when introducing women-centric legislation, highlights the bind female lawmakers face as elected officials. Female lawmakers may feel as though the most effective way to be involved in women-centric lawmaking is to appeal to patriarchal attitudes by using paternalistic language.

The notion that female lawmakers potentially utilize paternalistic language to protect or boost their political careers by appealing to male domination and patriarchal attitudes, implies that female lawmakers' acts of self-preservation take a different form than what I initially theorized. When female lawmakers appeal to chauvinism in the form of patriarchal language, they appear to self-infantilize, but because they are likely to be unaffected by growing abortion regulations, they manage to escape the sexist connotations in the language of the bills. In other words, abortion restrictions and the language used to enact them effect only a specific subset of women in the U.S., and female lawmakers are not likely to be included in that group. Disparities in access to abortion care and other reproductive healthcare services often occur due to social stratification on the basis of race, class, age, and gender, and female lawmakers are statistically less likely to experience the adversities related to social stratification that contribute to reproductive healthcare disparities. Therefore, female lawmakers who utilize paternalistic language may not be self-infantilizing at all.

In states across the country, there is a stark disparity between the governmental representation of racial and ethnic minorities and low income families and individuals, and the availability of basic services, including reproductive and abortion care. Lawmakers in the United States are largely white, while racial and ethnic minorities remain massively underrepresented

Table 2

*Population of African American and Latino legislators as compared to the population of these groups in the U.S.*

	State Legislatures <sup>11</sup>	U.S. Population <sup>12</sup>
African American	8.1%	13.2%
Latino	2.9%	17.4%

in elected assemblies (See Table 2). Meanwhile, women of color and low income women are massively underserved by reproductive healthcare services (Office of Human Rights, 2004). In a legal system that already places marginalized individuals at a disadvantage, women of color face exceptionally harsh stigma associated with their reproductive choices. The Constitutional right to abortion is only symbolic for many women, for whom the right and practicable ability to control the most fundamental levels of reproductive wellbeing and family matters - not to mention abortion - is essentially unavailable (Goodwin, 2015). These patterns of privilege and oppression as related to reproductive healthcare availability favor those who are white, male, and upwardly mobile; incidentally this is also the general makeup of state legislatures (Reingold, 2012).

If state legislatures are majority white (Reingold, 2012), and if anti-abortion restrictions are more likely to affect women of color and low income women, then white female legislators are unlikely to be affected by the restrictions they are attempting to enact. Therefore, they are also immune to the women-protective language that frames the legislation. In other words, language that may appear self-infantilizing when utilized by female legislators, does not have a self-infantilizing value because the legislators are largely unaffected by the bill's provisions.

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<sup>11</sup> See Reingold, 2012

<sup>12</sup> See Population Estimates, 2015

Whether a lawmaker is a man or a woman, abortion restrictions are unlikely to play a significant role in their personal lives, so long as they have social privileges based on race and class. My argument, then, is that paternalistic language and women-protective rhetoric as it appears in anti-abortion legislation is not an issue of debate between men and women, but rather a matter of privilege and oppression that occurs primarily along racial and class lines. Women legislators may choose to introduce anti-abortion legislation containing paternalistic language because the ultimate effects of self-infantilization therein is inherently reduced if they stand to gain – or maintain – structural power on the basis of race and class.

It is difficult to determine exactly why a female legislator may choose to use paternalistic language, despite the fact that it appears to disparage herself. A female lawmaker may fear backlash from her male colleagues that could potentially destabilize her career if she does not maintain the ubiquitous male-centric status quo. She may be impelled into tokenism, which could drive her to overcompensate with paternalistic language. She may deal in paternalistic language despite its self-infantilizing qualities, because she knows she will avoid the negative effects of the bill in practice. Regardless, it is clear that the previous assumptions that women would avoid paternalistic language to prevent self-infantilization are false.

Paternalistic language in anti-abortion legislation is undoubtedly sexist and contingent on chauvinistic traditional ideals of women and motherhood. However, paternalism expressed in the anti-abortion movement and its rhetoric specifically infantilizes women of color and low income women, rather than the female legislators in question, or the female population at large.

Therefore, the previously theorized assumption is incorrect because it fails to take into account the role that race, class, and other complex social factors play in the manifestation of sexism in anti-abortion laws in women's lives.

## Conclusion

This study set out to determine whether male and female legislators introduce anti-abortion legislation that contains paternalistic and women-protective language at the same rate. I theorized that female legislators would be less likely to employ this type of language, because to do otherwise would be self-infantilizing. However, the results indicated that male and female legislators were just as likely as each other to engage in the use of paternalistic language. Further analysis of the results explored reasons why female legislators would be compelled to utilize paternalistic language, including a general fear of backlash from male legislator colleagues, and race and class disparities that actually act to alleviate the effects of self-infantilization brought about by chauvinistic rhetoric.

The results and analysis of this study reiterate the role sexism plays in government, and explores the trickle-down-effect of paternalism from elected officials to citizens. More importantly, this research contextualizes the pervasive role of language in anti-abortion legislation, and how that language becomes a part of the general discourse on abortion when it is codified into written legal discourse. Finally, I outline how any paternalistic abortion restrictive discourse is particularly harmful to low income women and women of color, highlighting severe and ongoing reproductive healthcare disparities.

Therefore, I argue that a more nuanced and complex approach to the discussion regarding abortion legislation and anti-abortion rhetoric must take place to understand the full scope of the issue. A great deal of political science literature on abortion discusses it primarily as an issue of gender – men versus women. While it is true that women are the focal point of anti-abortion

legislation, the provisions offered in the bills surveyed in this study affect different women in different ways when put into practice. Since *Roe v. Wade*, abortion has been legal and essentially attainable for women with mostly unfettered access to resources and support. Though, for those women with access to fewer resources, abortion services are all but unobtainable. This study and its findings hopes to reorient the abortion debate away from the routine categorical discussion about gender, and towards a more intricate discourse that analyzes the intersections of race, class, and gender, and the impact that has on abortion politics.

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## Table of Surveyed Bills

*Organized alphabetically by state*

AL	SB 363	IN	SB 144	MN	SF 794	SC	S 25
AL	HB 183	IN	SB 374	MS	HB 519	SC	S 34
AL	SB 9	IN	SB 392	MS	SB 2297	SC	S 96
AL	SB 205	IA	SR 2001	MO	SB 802	SC	S 531
AL	HB 45	IA	HF 2084	MO	HB 1714	SC	H 4538
AL	HB 300	IA	SF 12	NE	LB 767	SC	H 4629
AK	SB 191	IA	HF 58	NE	LB 990	SC	H 4759
AK	HB 352	IA	HF 422	NH	HB 1399-FN	SD	HB 1157
AK	SB 179	IA	SF 11	NH	HB 1560-FN	SD	SB 72
AZ	SB 1324	IA	SF 44	NH	HB 1623-FN	TN	HB 1758
AR	HB 1424	KY	SB 152	NH	HB 1625-FN	TN	SB 1770
AR	SB 53	KY	SB 4	NH	HB 1636-FN	TN	SB 0050
AR	HB 1578	LA	HB 386	NH	HB 1662-FN	TN	HB 0002
AR	HB 1076	LA	HB 1019	NH	HB 1684-FN	TN	SB 0775
CA	AB 1313	LA	HB 1081	NJ	A 4471	TN	SB 716
CO	HB 16-1203	ME	HP 890	NJ	A 4509	TN	HB 948
CO	HB 16-1113	ME	SP 31	NM	HM 101	TN	HB 989
CO	HB 16-1218	MD	HB 1357	NM	SB 242	TN	SB 1190
FL	HB 1	MD	HR 7	NM	SB 243	TN	HB 1459
FL	SB 602	MD	SB 626	NY	A03717	TN	SB 1769
FL	HB 233	MD	SB 749	NY	A03725	UT	HB 442
FL	SB 1718	MA	HB 1348	NY	A04771	UT	SB 234
FL	SB 1722	MA	HB 1441	NY	A06473	VT	H 440
HI	HB 2763	MA	HB 1550	NY	A06502	VA	HB 1326
HI	HB 1444	MA	HB 1541	ND	SB 2275	WA	SB 6612
ID	SB 1349	MA	HB 2481	OH	HB 117	WA	SB 5289
ID	SB 1386	MA	HB 1547	OH	SB 214	WA	HB 2294
ID	HB 516	MI	SB 704	OK	SB 1552	WA	HB 1493
ID	SB 1404	MN	HF 1047	OK	SB 1118	WV	SB 22
IL	Hb 2701	MN	HF 734	OK	SB 2797	WV	HB 2440
IL	HB 3561	MN	HF 606	OR	HB 4070	WI	SB 179
IL	HB 4421	MN	SF 1934	PA	HB 1948	WI	AB 237
IL	HB 5022	MN	SF 904	RI	H 7313	WY	HB 0070
IN	HB 1122						